

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

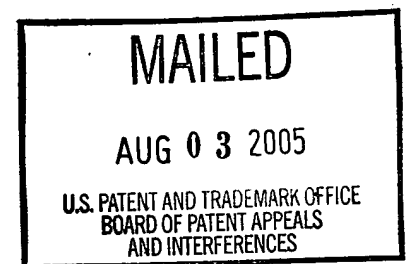
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JEFFREY L. ROBBINS and ULRICH B. HOLESCHOVSKY

Appeal No. 2005-1759
Application No. 10/068,123

ON BRIEF



Before GARRIS, PAK and KRATZ, Administrative Patent Judges.

GARRIS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal which involves claims 1-10 and 13-15.

The subject matter on appeal relates to a process for the preparation of a patterned polyurethane backed tufted good which comprises applying to the back side of the good a reactive polyurethane mixture which includes at least one non-Newtonian

thickener, forming a pattern in the polyurethane mixture as it passes under the edge of a doctoring device or a removable attachment to a doctoring device, and curing the polyurethane backed good which exhibits the desired pattern in the polyurethane backing. Further details of this appealed subject matter are set forth in representative independent claim 1 which reads as follows:

1. A process for the preparation of a patterned polyurethane backed tufted good comprising:
 - (1) applying a puddle of a reactive polyurethane mixture to the back side of a greige good or a precoated greige good, wherein the reactive polyurethane mixture comprises:
 - (a) at least one polyisocyanate component,
 - (b) at least one isocyanate-reactive component,
 - (c) at least one non-Newtonian thickeners,and
 - (d) at least one filler;
 - (2) passing the greige good coated with the reactive polyurethane mixture under a doctoring device, wherein the edge of the doctoring device is patterned or the doctoring device comprises a removable attachment that is patterned, thereby forming a pattern in the polyurethane mixture as it passes under the edge of the doctoring device or the removable attachment;
- and

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- (3) curing the polyurethane backed greige good which exhibits the desired pattern in the polyurethane backing.

The references set forth below are relied upon by the examiner as evidence of obviousness:

Stidham	4,354,810	Oct. 19, 1982
Bogdany	4,423,103	Dec. 27, 1983
Davis et al. (Davis)	5,045,375	Sep. 3, 1991
Satiar	GB 2 160 790 A	Jan. 2, 1986
(published Great Britain Patent Application)		
Holeschovsky et al. (Holeschovsky)	WO 00/37737	Jun. 29, 2000
(published World Intell. Prop. Org. Patent Application)		

All of the claims on appeal are rejected under 35 U.S.C. § 103(a) as being unpatentable over Holeschovsky in view of any one of Stidham, Davis, Bogdany or Satiar.¹

We refer to the brief and reply brief as well as to the answer for a complete discussion of the opposing viewpoints expressed by the appellants and by the examiner concerning these rejections.

¹The appellants have not separately grouped and argued any of the appealed claims in accordance with 37 CFR § 41.37 (September 13, 2004). Therefore, in assessing the merits of the above noted rejections, we will focus on representative claim 1, which is the sole independent claim before us, with which the remaining dependent claims will stand or fall.

OPINION

We will sustain each of the rejections advanced on this appeal for the reasons well expressed in the answer. We add the following comments for emphasis and completeness.

Holeschovsky discloses a process for the preparation of a polyurethane backed tufted good, namely, a carpet which may be practiced with conventional latex adhesive carpet manufacturing equipment (e.g., see the abstract and the first full paragraph on page 4). This objective is achieved by way of a polyurethane mixture which includes at least one non-Newtonian thickener and thereby avoids the dripping problems associated with prior art polyurethane mixtures (e.g., see the last paragraph on page 7). The process defined by the independent claim on appeal differs from Holeschovsky's process by requiring that the polyurethane mixture be patterned.

Each of Stidham, Davis, Bogdany and Satiar evinces that it is conventional in the processes and equipment of the prior art to form a pattern in carpet backings of latex and more significantly of polyurethane. Therefore, we fully share the examiner's conclusion that it would have been obvious for one with ordinary skill in this art to provide the process of Holeschovsky with a pattern forming feature of the type under

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consideration in view of any one of Stidham, Davis Bogdany or Satiar. This provision would have been motivated by a desire to obtain the known advantages of a pattern (e.g., an anti-skid advantage). Moreover, the artisan would have reasonably expected this provision to be successful based on the combined reference teachings particularly Holeschovsky's teachings that his polyurethane mixture having a non-Newtonian thickener possesses properties which eliminate the dripping, running and other problems associated with prior art polyurethane mixtures (again see the last paragraph on page 7 of Holeschovsky). See In re O'Farrell, 853 F.2d 894, 903, 7 USPQ2d 1673, 1681 (Fed. Cir. 1988).

The appellants argue that there is no reasonable expectation of success for the above discussed provision and, as support for this argument, reply upon the inventive and comparison examples on pages 12-13 of the subject specification (see the last full paragraph on page 15 of the brief). This argument is not persuasive for the reasons expressed above and in the answer. Moreover, this argument is in no way supported by the inventive and comparison examples listed in Table 1 on specification page 13. This is primarily because the polyurethane mixtures of the comparison examples do not contain non-Newtonian thickeners in

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accordance with Holeschovsky and thus have no meaningful probative value on the issue of success vis-à-vis the non-Newtonian thickener containing polyurethane mixture of Holeschovsky.


Under the circumstances discussed above and detailed in the answer, it is our ultimate determination that the examiner has established a prima facie case of obviousness which the appellants have failed to successfully rebut with argument or evidence of nonobviousness. We hereby sustain, therefore, the Section 103 rejection of all appealed claims as being unpatentable over Holeschovsky in view of any of one of Stidham, Davis, Bogdany or Satiar. See In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992).


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The decision of the examiner is affirmed.

No time period for taking any subsequent action in
connection with this appeal may be extended under 37 CFR
§ 1.136(a)(1)(iv).

AFFIRMED


BRADLEY R. GARRIS
Administrative Patent Judge


CHUNG K. PAK
Administrative Patent Judge


PETER F. KRATZ
Administrative Patent Judge

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